

# UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

ANDRE PACE  
Plaintiff

JURY TRIAL Demand  
Civil No.

U.S. DISTRICT COURT  
DISTRICT OF MASS.

2019 APR -11 PM 2:22

FILED  
IN CLERKS OFFICE

v.

MASSACHUSETTS DEPARTMENT OF  
CORRECTION: THOMAS TURCO, Former  
Commissioner of the Department of Correction, in  
his official and individual capacities;  
CAROL Mici, Commissioner of the  
Department of Correction, in her official  
and individual capacities; STEVEN SILVA, former  
superintendent of the SOUZA BATANOWSKI Correctional Facility  
in his official and individual capacities  
STEVEN KENNEWAY superintendent of the SOUZA BATANOWSKI  
Correctional Facility in his official and individual capacities  
Defendants, C.O.'S, SALAMON, C.O. VALLADE, C.O. MASHUKA  
C.O. BOIDUC, C.O. DAVUL, C.O. CHAPUT,

## PLAINTIFF'S COMPLAINT

Plaintiff Andre Pace for his complaint states as follows

### INTRODUCTION

1. This is an action to recover monetary damages and  
injunctive relief for grievous and irreparable personal  
and emotional injury and physical permanent injury sustained  
as an inmate in the custody of the Department of  
Corrections (hereinafter Doc). PLAINTIFF MR. ANDRE PACE



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Incarcerated in the custody of the Doc under the care and control of the defendant's who has and continue to subject the Plaintiff to cruel and unusual treatment and punishment because of the defendant's reckless disregard for the Plaintiff health, and safety, that has caused the Plaintiff to suffer serious physical as well emotional injury as a result of excessive force, also creating and hostile environment's also sexual assault and abuse by acting with deliberate indifference, to these situation's when brought to the defendant's attention each of the individually name defendant's did violate the Plaintiff and place constitutional right of the 8th Amendment

of the U.S. constitution The Plaintiff seeks compensatory damage's declaratory and injunctive relief for the deprivation of his rights as secured by the United States constitution, laws and regulations of the United States and the Commonwealth of the Massachusetts The Plaintiff is seeking damages for mental anguish and stress



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## JURISDICTION AND VENUE

This Action Arises Under The Constitution And LAWS OF The United States This COURT HAS SUBJECT MATTER Jurisdiction Over All CLAIMS Arising Under The United States Constitution 42 U.S.C. 1983. This COURT HAS Jurisdiction Over The Request For declaratory relief Pursuant To 28 U.S.C. 1331, 2201 And 2202 This COURT HAS SUPPLEMENTAL Jurisdiction Over All STATE LAW CLAIMS Under 28 U.S.C. 1367(A) Venue lies in The District Of Massachusetts Pursuant To 28 U.S.C. 1391(b). The events giving rise to This Action in This District



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## PARTIES

Plaintiff Andre Pace (Mr. Pace) AT SOUZABARANOWSKI, (S.B.C.C.) is an inmate in the custody of the MASSACHUSETTS DEPARTMENT OF CORRECTION

The defendant MASSACHUSETTS DEPARTMENT OF CORRECTION [DOC] is a political subdivision of the Commonwealth of MASSACHUSETTS, The DOC receives Federal Financial Assistance

Defendant THOMAS TURCO was the Commissioner of the Department of Corrections in the Commonwealth of MASSACHUSETTS in 2016, Mr. Turco was ultimately responsible for and controlled the care and custody of the Plaintiff and the operation and actions of the DOC. He is being sued in his official and individual capacities

Defendant CAROL MICI is the current Commissioner of the Department of Correction in the Commonwealth of the Department of Correction MS. Mici is ultimately responsible for and controls the care and custody of the Plaintiff and the operation and action of the DOC. She is being sued in her official and individual capacities.



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Defendant C.O. MASHAKA is an officer of the MASSACHUSETTS Department of Correction (hereinafter Doc.) who acted under color of law, and is sued in his individual and official capacities

Defendant C.O. SALAMON is an officer of the MASSACHUSETTS Department of Correction (hereinafter D.O.C.) who acted under color of law and is sued in his individual and official capacities

Defendant C.O. <sup>VAIADe</sup> ~~VAIADe~~ is an officer of the MASSACHUSETTS Department of Correction (hereinafter D.O.C.) who acted under color of law and is sued in his individual and official capacities

Defendant C.O. DAVU is an officer of the MASSACHUSETTS Department of Correction, (hereinafter D.O.C.) who acted under color of law and is sued in his individual and official capacities



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Defendant Steven Silva is the former Superintendent of Souza Baranowski Correctional Facility (Hereinafter S.B.C.C.) Mr. Silva the Superintendent was ultimately responsible for and controlled the care and custody of the Plaintiff while he was housed in the S.B.C.C. and the operation and action of the Souza Baranowski Correctional Facility he is being sued in his official and individual capacities

Defendant Steven Kenneway is the Superintendent of Souza Baranowski Correctional (hereinafter S.B.C.C.) Mr. Kenneway was ultimately responsible for and controlled the care and custody of the Plaintiff while he was housed in the S.B.C.C. and the operation and action of the Souza Baranowski Correctional Facility he is being sued in his official and individual capacities

Defendant C.O. Chapat is an officer of the Massachusetts Department of Correction (Hereinafter D.O.C.) who acted under color of law and is sued in his individual and official capacities



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Defendant C.O. Bolduc is an officer of the MASSACHUSETTS DEPARTMENT OF CORRECTION (Hereinafter Doc) who acted under color of Law and is sued in his individual and official capacities



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## STATEMENTS OF FACT'S

my life And liberty is <sup>AND</sup> continue to be placed in jeopardy because of my criminal Conviction since 2009 As being a convicted sex offender And serving my sentence AT S.B.C.C. From every housing i WAS TO Enter And live the officers Working those units gave inmates deliberate FALSE information THAT i WAS A convicted child molester for YEARS ive endured this coming from officers BECAUSE ITS PART OF life here AT S.B.C.C.

on or Around MARCH 21. 2016 AT Around 5:30 PM I WAS Moved From H-1 housing unit TO the L-1 housing unit Upon entering that unit i WAS met by officers SALAMON, And VALLADE, Upon going to my Assigned cell i COULD hear And see officer's SALAMON And VALLADE calling me A child molester in A very loud And hostile this continued Every shift they work while i WAS in that housing this would CAUSE other inmates housed in that unit TO threaten me with bodily physical HARM because they heard And WAS Told by C.O.'s SALAMON, And VALLADE,



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I WAS A child molester This All came And end When on April 20. 2016 While Returning my food tray After lunch i WAS CUT In the left side of my face From behind my back And inmate Who said he did not Like child molesters during the Attack And Assault The other inmates Who witness the incident began to yell from their cell to Kill the child molester I WAS Then TAKEN to medical unit Hsu, Then i WAS Placed on suicide watch because i WAS feeling suicidal

After the suicide watch i WAS TAKEN TO the segregation unit confined 24 hours A day Then Upon being released From this unit i WAS Placed in H-1 Where i remained untill June 21. 2016 While housed in this unit C.O. MASHAKA, This officer Began to inform the inmates who lived in the housing unit that i WAS CUT In the face because i WAS A child molester this false information put out by this officer has also occurred prior to this incident in which WAS reported to the defendant's however on June 21. 2016 While At the officer's Desk station



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I WAS APPROACH by A inmate Who yell out AT me WHAT'S UP childmolester A Fight TOOK PLACE between my self And This inmate Then A second inmate entered the fight And began to repeatedly hit me in the head with officers Desk station phone Where i received serious head injuries And still suffer serious head Aches Today

on February 22, 2019, Upon being removed From suicide watch i WAS Placed in the housing unit H-1 Upon entering the unit C.O. CHAPUT WAS Working the officers Desk station i WAS Told my cell 29 While in this cell i WAS Approach by And inmate Who immediately Attack And ASSAULTED me While in this cell Upon noticing this inmate it WAS the SAME inmate Who ive had Prior Problems With While in H-1 I received serious bodily injuries To the left of my head the temple Area where there WAS swelling also Fractured Left hand i WAS seen By the nurses but not treated for my injuries nor provided And X RAY For my Left And Right hand



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Upon returning to this same housing on February 6, 2019, I was informed by And Jon Doe inmate that prior to me coming to that housing unit C.O. CHAPUI WAS Telling inmates that child molester is coming to the block which is why I WAS ATTACK AND ASSAULTED in the cell 29 ALSO following the ASSAULT the officers response team rush into the unit and removed me

From the housing unit while being escorted out of the unit and into the hallway area I WAS SLAM into the wall by these officers and then the handcuffs WAS PLACED very tightly on both wrist upon looking behind my back to see who WAS TAKING TO the Hospital service unit and had placed the handcuffs so tight that WAS cutting into my wrist and who WAS bonding my wrist I notice IT WAS C.O. DAVUI and officer who we repeatedly made complaints against for STAFF misconduct along with his fellow officer BORDUC who also held the handcuffs very tightly



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Upon the removal of the handcuffs  
+ notice cuts to my both wrist  
Bleeding And A numbness And  
Tingling feeling in both wrist i  
AM suffering from the injuries  
And not been treated medically  
seen And examined by nurse but not  
treated nor seen by the Doctor  
AS i requested on many occasions

On JANUARY 10, 2019 AT Around Ten AM  
I WAS CALL TO THE OFFICER'S DESK  
STATION by C.O. DAVUL TO review my  
SIX PART Order by CPO Prior to going  
into the med room to meet with  
this C.P.O. C.O. DAVUL TOLD me i had  
to be search upon me Submitting  
to the search during the search i  
notice And Get C.O. DAVUL Touch And  
Squeeze my BUTT At first i did  
not think And MAKE Anything of it  
until Prior to me going into the  
Room i STOP And look AT this C.O.  
Who SAID so what nobody is going  
to do nothing or believe you i then  
Went into the room to review my files  
Leading up to this incident ive made many  
COMPLAINTS AGAINST this officer DAVUL



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The PLAINTIFF is Also seeking monetary DAMAGE's for the denial of medical care And treatment that is being denied in A on going concerted And Systematic EFFORT by the Medical PERSONAL who HAS sought to not treat the PLAINTIFF in Jails upon his Filing of COMPLAINTS. The PLAINTIFF HAS And IS still experiencing on going RETALIATORY Actions being inflicted upon him by the defendant's And fellow officers NOT NAMED in this LAWSUIT because of

The PLAINTIFF complaints of STAFF Misconduct, which has only gotten WORST because of this LAWSUIT And the Filed Grievance's. The Defendant's has been made AWARE of All these issue's either by the PLAINTIFF or by his ATTORNEY most of the issue's raised WAS Ignored AFTER being brought to there ATTENTION Also the C.O.'s At

S.B.C.C. And the defendant's HAS Access COBI INFORMATION About the PLAINTIFF And every inmate in the prison And the COBI information is used As A Weapon



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## DAMAGES

MR. PACE HAS BEEN REPEATEDLY ASSAULTED WHILE HOUSED WITH INSUFFICIENT CARE AND SUPERVISION OFFICERS WHO WITH RECKLESS DISREGARD FOR MR. PACE WELL BEING BY SPREADING FALSE AND MALICIOUS INFORMATION TO INMATES THAT INFORMATION DID INCITE THOSE INMATES TO PHYSICALLY ASSAULT MR. PACE WHO SUFFERED PERMANENT INJURIES HE HAS SUFFERED EXTREME EMOTIONAL TURMOIL, EMOTIONAL DISCOMFORT AND PHYSICAL VIOLENCE FROM THE INADEQUATE CARE AND PROTECTION OF THE DEFENDANTS

BY FAILING TO TRAIN AND SUPERVISE CORRECTIONAL OFFICERS BY FAILING TO IMPLEMENT AND ENFORCE EFFECTIVE POLICIES AND PROCEDURES, THE DEFENDANTS HAVE VIOLATED THEIR DUTIES TO PROTECT INMATES IN THEIR CUSTODY FROM UNREASONABLE RISK OF PHYSICAL INJURY AT THE HANDS OF OTHER INMATES

AS A DIRECT AND PROXIMATE RESULT OF DEFENDANT CONDUCT AND THE POLICY OR PRACTICE OF THE D.O.C. MR. PACE SUFFERED THE SEVERE AND



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Permanent injuries AS described And has  
Been forced to endure mental suffering  
And WAS deprived of his right to be  
Secure in his Person And Free From  
The imposition of cruel And unusual  
Punishment



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Defendants knew or should have known that their deliberate actions was going to cause harm to Plaintiff

As a direct and proximate result of their acts as aforesaid Plaintiff has suffered severe emotional distress manifested by physical permanent injury, physical symptomatology which a reasonable person would have suffered under the circumstances

### PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully request that this court

A) Enter judgement for the Plaintiff and against the Defendants on all counts of this complaint  
B) Award Plaintiff compensatory damages, for mental anguish, mental stress, the Plaintiff will forever need mental health counseling. Also plastic surgery to remove scars

C) Award Plaintiff punitive damages  
D) Enter a preliminary and permanent injunction requiring the Defendants their agents, subordinates, employees and others acting in concert with them to cease their unconstitutional



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And UNLAWFUL PRACTICES To Remedy  
Their Violation of The Constitutional  
LAWS

F) AWARD The PLAINTIFF REASONABLE COST  
And ATTORNEY'S Fee's PURSUANT TO 42 U.S.C.  
1988

G) And GRANT such other relief AS The  
Deems JUST And PROPER

JURY DEMAND

A JURY TRIAL is hereby demanded

Respectfully Submitted  
Mr. Andre Pace, Pro-Se,  
SOUZABARANOWSKI  
P.O. Box 8000, Shirley  
MA 01464



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MR. PACE HAS EXHAUSTED HIS ADMINISTRATIVE Remedies

MR. PACE FILED GRIEVANCE'S ON ALL THE ISSUES THAT IS STATED IN THIS CIVIL COMPLAINT SOME WHICH WAS IGNORED BY THE GRIEVANCE DEPARTMENT IN WHICH MR. PACE SOUGHT THE ASSISTANCE OF HIS ATTORNEY MR. ADAMS TO ADDRESS MY COMPLAINT'S TO THE SUPERINTENDANT MR. SILVA, ALSO THE COMMISSIONER MR. TURCO, ALSO FOR THE DELIBERATE

FAILURE TO ANSWER GRIEVANCE'S MR. PACE HAS REPEATEDLY SOUGHT OUT THE DIRECTOR OF GRIEVANCE MS. KATE SILVA UPON THE DEFENDANTS BECOMING AWARE MR. PACE WAS FILING A CIVIL COMPLAINT THE DEFENDANT HAS

ACTED IN A ON GOING CONCERTED AND SYSTEMATIC EFFORT TO IMPEDE, DEPRIVE AND DENY MR. PACE COMPLAINTS TO HAVE MR. PACE DISMISS IN COURT FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES MR. PACE HAS SUFFICIENTLY MADE THE DEFENDANTS AWARE OF THE ISSUE'S IN CIVIL COMPLAINT



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COUNT 1

VIOLATION OF THE EIGHT AND FOURTEENTH  
AMENDMENTS OF THE UNITED STATES CONSTITUTION  
CRUEL AND UNUSUAL PUNISHMENT  
(42 U.S.C. 1983)

AS IS SET FORTH FULLY HEREIN DEFENDANTS  
WITH GROSS NEGLIGENCE OR DELIBERATE  
INDIFFERENCE AND UNDER COLOR OF STATE LAW  
HAVE PERMITTED, ENCOURAGED, TOLERATED AND  
RATIFIED A PATTERN AND PRACTICE OF UNJUSTIFIED  
UNREASONABLE AND ILLEGAL CONDITIONS OF  
CONFINEMENT THAT CONSTITUTED CRUEL AND  
UNUSUAL PUNISHMENT.

THE ACTIONS OF THE DEFENDANTS DEPRIVE'S  
AND CONTINUE'S TO DEPRIVE'S MR. PACE OF  
HIS RIGHT TO BE FREE FROM CRUEL AND  
PUNISHMENT AS SECURED BY THE EIGHT,  
AND FOURTEENTH AMENDMENTS TO THE UNITED  
STATES CONSTITUTION AND 42 U.S.C. 1983  
BY IGNORING MR. PACE CONCERNS FOR HIS SAFETY  
BECAUSE OF THE DEFENDANTS RECKLESS  
DISREGARD FOR THE PLAINTIFFS WELL BEING THAT  
ATTRIBUTED BY THE DEFENDANTS IN  
VIOLATION OF THE PLAINTIFFS CONSTITUTIONAL RIGHTS



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Defendant's conduct And The Policy or Practice of The Doc Mr. Pace suffered the Severe And Permanent injuries As described And has been forced to endure mental Anguish And stress And continue to suffer. The Plaintiff was deprived of his Right to be Secure in his Person And Free from the imposition of cruel And UNUSUAL Punishment

### COUNT II

Violation of Article I, of The MASSACHUSETTS Declaration of Rights cruel And UNUSUAL Punishment (M.C.L. ch 12 11I)

As it set forth fully herein. Defendant's Under color of STATE LAW have deprived And continues to deprive Mr. Pace of his Rights to be free from cruel And UNUSUAL Punishment His right to be free from cruel And UNUSUAL Punishment As secured by Article XXVI of The MASSACHUSETTS Declaration of Rights And M.C.L. ch. 12 11I, by ignoring Mr. Pace safety concerns And subjecting him to dangerously violent conditions of



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Confinement And by exhibiting reckless disregard for Mr. Pace Wellbeing TO the deliberate indifference TO PLAINTIFF SUBSTANTIAL RISK OF SERIOUS PHYSICAL INJURY AS A RESULT OF THESE CONDITIONS

DEFENDANTS have long been aware of the consequences of the conditions of confinement for inmates convicted of sex offenses through meetings correspondence, hearings Prison Legal Service's, Attorneys, Complaints And other means but have failed to take reasonable corrective actions AS A direct And proximate result of Defendant's conduct And the policy or practice of the Doc Mr. Pace suffered injuries AS Described



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### COUNT III

The PLAINTIFF hereby AS IF FULLY set forth  
Herein

The DEFENDANTS owed the PLAINTIFF A  
DUTY OF CARE.

BASED UPON DEFENDANTS ACTS AND  
OMISSIONS AS AFORESAID THE  
DEFENDANTS VIOLATED THE DUTY OF CARE  
OWED TO THE PLAINTIFF

THE PLAINTIFF HAS SUFFERED DAMAGES AS A  
OF THE SAME.

### COUNT IV

Deliberate infliction of EMOTIONAL DISTRESS

The PLAINTIFF hereby Already set forth  
Herein

DEFENDANTS had direct knowledge and  
warning OFFICERS posed a potential  
THREAT TO THE SAFETY AND WELL BEING OF  
PLAINTIFFS yet did not take action to stop  
THESE OFFICERS FROM THE ABUSE  
AND MISUSE OF CORI INFORMATION,  
THAT PERMITTED PHYSICAL ASSAULT  
AGAINST PLAINTIFF BY inciting inmates with  
FALSE AND MALICIOUS INFORMATION TO CAUSE HARM



And subjecting dangerously violent conditions of confinement created by the defendants with reckless disregard for the Plaintiff's well being with deliberate indifference the defendant actions did create substantial risk of serious physical injury that did attributed Mr. Pace being attack and suffering serious permanent injuries. The Defendants have long been aware by prior incidents, complaints, correspondence. The consequences of these conditions of confinement or intimidation, threats, assaults, the defendants have failed to take the reasonable corrective actions and have

been grossly negligent or deliberate indifferent. The defendant failed to implement and enforce effective policies and procedures governing the defendants and officers, access to COB information, and the misuse and abuse of said information. The defendants have violated both state and federal laws in doing so. The defendants have violated their duties to protect inmates in their custody from unreasonable risk of physical injury at the hands of other inmates as a direct and proximate result of



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Count ~~V~~

Violation of the Americans with Disabilities Act 42 U.S.C. 12101, et. seq

Plaintiff is a qualified individual with disabilities as defined in the Americans with Disabilities Act ("ADA") since 2009. Plaintiff has been held in custody of defendant's. he has mental impairments that substantially limit one or more major life activities, including but not limited to thinking concentrating and interacting with others and controlling his behavior. As a state prisoner, Plaintiff meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by defendant. Doc. 42 U.S.C. 12102 (2) 42 U.S.C. 12131 (2)

Defendant Doc is a public entity as defined under Title of the ADA, 42 U.S.C. 12131 (B)

The Defendant Doc's failure to provide individualized assessments of the mental health need and treatment requirements of prisoner's with mental illness, like and by failing to provide Mr. Pace with a suitable housing situation and instead placing Mr. Pace in disciplinary segregation Mr. Pace is left largely untreated and unsupervised and denied benefits of the facility with services programs and activities



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## COUNT VI Negligence

The Plaintiff hereby repeat And reAlleges Above As if Fully set forth herein

The Defendant's owed The Plaintiff A duty of Care.

Based Upon Defendant's Acts And omissions As Afore said The Defendant's breached The duty of Care owed To The Plaintiff

The Plaintiff has suffered damages As A result of The same.

## COUNT VII

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS  
The Plaintiff hereby re-Alleges Above As if Fully set forth herein.

Defendant's had A reasonable basis to know that The misuse And Abuse of Cori information by the said correctional officer's mention in this civil action posed A Potential threat to the safety And well being of Plaintiff yet did not TAKE action to protect Plaintiff from Assault And Injury

Defendant negligently permitted sexual Assault or Abuse Against Plaintiff



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Defendants knew or should have known that their negligence was reasonably likely to cause harm to Plaintiff.

As a direct and proximate result of their action and omission's aforesaid Plaintiff has suffered severe emotional distress, manifested by physical symptomatology, which a reasonable person would have suffered under the circumstances.